

REMARKS

Claims 1-10 and 12-16 are pending in the above-identified application. These claims have been subjected to a Unity of Invention Requirement as follows:

Group I -- claims 1-9 and 13-15 directed to a pharmaceutical composition;

Group II -- claims 10 and 16 directed to a method for treating cancer which includes administration of the pharmaceutical composition of claim 1; and

Group III, -- claim 12 directed to a process for preparing the pharmaceutical composition of claim 1.

Support for the change to claim 1 is found in the specification at page 4, lines 30-31.

As a basis for the above-noted Unity of Invention Requirement, it is asserted in the Office Action of November 26, 2007 that both Francis '876 (USP 4,923,876) and Kruczinski et al. (*Critical Reviews in Oncology/Hematology*, **40**, 2001, pp. 159-173) disclose the claimed composition.

Responsive Election

In response to the Unity of Invention Requirement, Applicant hereby elects the subject matter of Group I. This election is made with a traversal based on the following reasons.

It is respectfully submitted that the technical feature linking the invention among Group I-Group III is the absence of any preservatives in the claimed pharmaceutical composition of a water-soluble vinflunine salt in a stable, sterile aqueous solution of pH 3-4. Both Francis '876 and Kruczinski et al. fail to disclose such a composition. Francis '876 requires the presence of a preservative, such as benzyl alcohol for example, as noted at column 3, lines 15-18. Consequently, it is requested that the Unity of Invention of Requirement be withdrawn such that all of the subject matter of the present application may be substantively examined.

In addition to the above, it is respectfully requested that the Patent Examiner consider rejoinder at least with respect to claim 12, since this claim includes all of the composition features of claim 1 therein.

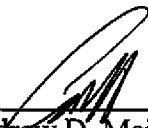
If any questions arise in the above matters, please contact Applicant's representative, Andrew D. Meikle (Reg. No. 32,868), in the Washington Metropolitan Area at the phone number listed below.

- ☒ Attached is a Petition for Extension of Time.
- ☒ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: January 28, 2008

Respectfully submitted,

By 

Andrew D. Meikle
Registration No.: 32,868
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant